

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  INTERSTATE POWER AND LIGHT COMPANY	DOCKET NO. EPB-02-150
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**ORDER ESTABLISHING ISSUES ON APPEAL AND  
SETTING DATES FOR FILING BRIEFS**

(Issued April 18, 2003)

On March 29, 2002, Interstate Power and Light Company (IPL) filed its multi-year emissions plan and budget (EPB) for managing regulated emissions from its coal-fueled electric power generating facilities located in Iowa pursuant to Iowa Code § 476.6(25).

Iowa Code § 476.6(25)"a"(3) provides that an investor-owned utility's EPB shall be considered in a contested case proceeding pursuant to Iowa Code chapter 17A. On April 26, 2002, the Utilities Board (Board) docketed the proceeding as a formal contested case and established a procedural schedule for the filing of testimony. The EPB was identified as Docket No. EPB-02-150.

On June 17, 2002, the Board issued an order assigning the docket to the administrative law judge (ALJ) to establish a procedural schedule, set a hearing date, and conduct the proceedings. Iowa Code § 476.6(25)"d" provides that the Board shall issue an order approving or rejecting an EPB within 180 days after the utility's filing is deemed complete. On October 11, 2002, an order was issued by the ALJ

deeming the EPB complete, setting a procedural schedule, and establishing a hearing date. The ALJ conducted the proceedings as scheduled and subsequently issued a proposed decision and order approving IPL's EPB as amended.

Subrule 199 IAC 7.8(2) requires that appeals from the proposed decision of the ALJ be filed within 15 days of the date the decision is issued. An appeal was timely filed by IPL. A timely response to IPL's appeal was filed by the Consumer Advocate Division of the Department of Justice (Consumer Advocate). Neither party requested opportunity for argument.

Pursuant to 199 IAC 7.8(2)"d," the Board must issue a ruling on the issues to be decided on appeal within 20 days of the date of the notice of appeal. The Board will set out the issues that will be considered on appeal and will set a date for filing briefs on those issues.

### **ISSUES FOR CONSIDERATION ON APPEAL**

**1. Whether IPL is prohibited from using a rider mechanism with forecasted expenditures based upon an approved EPB.**

IPL asserts that the language in paragraph 6 of the conclusion of law section of the proposed order may be interpreted to preclude IPL's rider mechanism currently pending in Docket Nos. RPU-02-3 and RPU-02-8. IPL states that its rider mechanism uses IPL's EPB as the base for the dollar levels of emission expenditures to be included in rates, however, only actual expenditures consistent with the EPB are to be passed on to IPL's customers.

Consumer Advocate responds by stating that Iowa Code § 476.6(25)"e" expressly allows only the reasonable costs incurred for emissions to be recovered by customers in rates and that IPL's request to amend paragraph 6 of the conclusions of law section does not comply with Iowa Code § 476.6(25)"e."

The Board finds that this issue should be considered on appeal.

The Board will allow the parties to file briefs concerning the issues the Board has identified as issues to be decided on appeal. The Board will reserve a decision on whether to reopen the record until it has completed consideration of the briefs. The Board will not schedule oral arguments at this time. Additionally, the Board reserves the right to address other issues that it finds to be relevant during its consideration of the proposed order.

**IT IS THEREFORE ORDERED:**

Simultaneous briefs addressing the issue to be decided by the Utilities Board on appeal, as described in this order, shall be filed on or before April 29, 2003.

**UTILITIES BOARD**

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 18<sup>th</sup> day of April, 2003.